

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

RAYMOND L. BRUTON,)	
)	
Plaintiff,)	
)	
)	Civil Action No. 06-791-SLR
v.)	
)	Jury Trial Requested
)	
MRS. PAMELA A. MINOR, MRS.)	
CHERYL REGAN, MR. STANLEY W.)	
TAYLOR, and WARDEN RAPHAEL)	
WILLIAMS,)	
)	
Defendants.)	

**STATE DEFENDANTS PAMELA A. MINOR,
CHERYL REGAN AND WARDEN RAPHAEL WILLIAMS'S
ANSWER TO PLAINTIFF'S COMPLAINT [RE: D.I. 2]**

COMES NOW, State Defendants Pamela A. Minor, Cheryl Regan and Warden Raphael Williams (the "State Defendants")¹, by and through their undersigned counsel, and hereby respond to the unnumbered paragraphs of Plaintiff Raymond L. Bruton's Complaint, dated December 20, 2006 and filed December 27, 2006 (D.I. 2), as follows:

Previous Lawsuits

State Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations asserted in the "Previous Lawsuits" section of the Complaint and, therefore, deny same.

¹ There is no indication that Defendant Stanley Taylor has been served, waived service or waived his right to respond. Therefore, Stanley Taylor is not a party to this Response.

Exhaustion of Administrative Remedies

State Defendants admit that Plaintiff wrote to the Warden. State Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations asserted in the “Exhaustion of Administrative Remedies” section of the Complaint that Plaintiff wrote to Stanley Taylor and, therefore, deny same. State Defendants admit that Plaintiff wrote grievances. State Defendants admit that Plaintiff wrote to Defendant Minor. State Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations asserted in the “Exhaustion of Administrative Remedies” section that “Everyone has advise Plaintiff to be patient” and, therefore, deny same. State Defendants deny each and every other allegation of the “Exhaustion of Administrative Remedies” section not specifically admitted herein.

Defendants

1. State Defendants admit that Defendant Minor is employed at Howard Young. State Defendants deny each and every other allegation of Paragraph 1 of the “Defendants” section of the Complaint not specifically admitted herein.

2. State Defendants admit that Cheryl Regan is employed at Howard Young. State Defendants deny each and every other allegation of Paragraph 2 of the “Defendants” section of the Complaint not specifically admitted herein.

3. This paragraph appears directed to another party. As such, State Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations asserted in Paragraph 3 of the “Defendants” section of the Complaint and, therefore, deny same.

Statement of Facts

Paragraph No. 1: State Defendants admit that Plaintiff requested to defer his MDT and Board of Parole Hearings. State Defendants deny each and every other allegation of Paragraph No. 1 of the “Statement of Facts” section of the Complaint not specifically admitted herein.

Paragraph No. 2: State Defendants admit that Claudette Pettyjohn is employed at the Delaware Correctional Center. State Defendants deny each and every other allegation of Paragraph No. 2 of the “Statement of Facts” section of the Complaint not specifically admitted herein.

Paragraph No. 3: The allegations of Paragraph No. 3 of the “Statement of Facts” section of the Complaint are denied.

Paragraph No. 4: The allegations of Paragraph No. 4 of the “Statement of Facts” section of the Complaint are denied.

Paragraph No. 5: The allegations of Paragraph No. 5 of the “Statement of Facts” section of the Complaint are denied.

Paragraph No. 6: The allegations of Paragraph No. 6 of the “Statement of Facts” section of the Complaint are denied.

Paragraph No. 7: This paragraph appears directed to another party. As such, State Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations asserted in Paragraph 7 of the “Statement of Facts” section of the Complaint and, therefore, deny same.

RELIEF

State Defendants specifically deny that Plaintiff is entitled to any relief or damages, including injunctive relief, compensatory damages, punitive damages, costs and/or attorneys' fees.

DEFENSES AND AFFIRMATIVE DEFENSES

1. The Complaint fails to state claims upon which relief may be granted.
2. The allegations of the Complaint and the claims made therein are moot.
3. The action and all claims are barred by Eleventh Amendment immunity.
4. As to any claims against the State or against State Defendants in their official capacities, State Defendants and the State are protected from liability by the doctrine of sovereign immunity.
5. Officials and employees of the State of Delaware acting in good faith within the scope of their employment and without knowingly violating well established federal rights, are entitled to qualified immunity and cannot be held liable in this action.
6. State Defendants, in their official capacities, are not liable for alleged violations of Plaintiff's constitutional rights as they are not "persons" within the meaning of 42 U.S.C. § 1983.
7. As to any claims sounding in state law, the State Defendants are immune from liability under the State Tort Claims Act, 10 Del. C. §4001 *et seq.*

8. To the extent Plaintiff seeks to hold State Defendants liable based on supervisory responsibilities, the Doctrine of Respondeat Superior or vicarious liability is not a basis for liability in an action under 42 *U.S.C.* § 1983.

9. This action and all claims are barred, in whole or in part, by the applicable statute of limitations or any other statutorily required administrative time requirement.

10. Plaintiff has failed to exhaust his administrative remedies, including but not limited to, remedies pursuant to 42 *U.S.C.* § 1997a(e).

11. State Defendants cannot be held liable in the absence of personal involvement for alleged constitutional deprivations.

12. To the extent Plaintiff's claims sound in negligence, Plaintiff cannot state a cause of action under 42 *U.S.C.* § 1983.

13. The Plaintiff's claims are barred by his contributory negligence.

14. Plaintiff fails to state a claim against State Defendants for failure to train and maintenance of wrongful customs, practices and policies.

15. Plaintiff fails to state a claim against State Defendants for violation of the Fourteenth Amendment.

16. Plaintiff's injuries and damages, if any, resulted from an intervening and superseding cause.

17. Plaintiff's own conduct proximately caused and/or exacerbated his injuries, if any.

18. Insufficiency of service of process.

19. Insufficiency of process.

20. Lack of jurisdiction over the person and subject matter.

**STATE OF DELAWARE
DEPARTMENT OF JUSTICE**

/s/ Erika Y. Tross

Erika Y. Tross (#4506)

Deputy Attorney General

820 North French Street, 6th Floor

Wilmington, Delaware 19801

(302)577-8400

Attorney for Defendants Pamela Minor,
Cheryl Regan and Raphael Williams

Dated: July 5, 2007

CERTIFICATE OF SERVICE

I, Erika Y. Tross, Esq., hereby certify that on July 5, 2007, I caused a true and correct copy of the attached *State Defendants Pamela A. Minor, Cheryl Regan and Warden Raphael Williams's Answer to Plaintiff's Complaint [Re: D.I. 2]* to be served on the following individual in the form and manner indicated:

NAME AND ADDRESS OF RECIPIENT(S):

Inmate Raymond L. Bruton, Sr.
SBI #00069025
Howard R. Young Correctional Institution
P.O. Box 9561
Wilmington, DE 19809

MANNER OF DELIVERY:

- ☐ One true copy by facsimile transmission to each recipient
- ☒ Two true copies by first class mail, postage prepaid, to each recipient
- ☐ Two true copies by Federal Express
- ☐ Two true copies by hand delivery to each recipient

/s/ Erika Y. Tross
Erika Y. Tross (#4506)
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Delaware Department of Justice
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